

# **EXHIBIT 3**

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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ALEXANDER SMIRNOV,

16 Defendant.  
17

No. CR 2:24-cr-00091-ODW

GOVERNMENT'S APPLICATION FOR  
REVIEW OF MAGISTRATE JUDGE'S BAIL  
ORDER; MEMORANDUM OF POINTS AND  
AUTHORITIES; EXHIBITS

18  
19 Plaintiff United States of America, by and through its counsel  
20 of record, the Office of Special Counsel David C. Weiss, hereby  
21 applies to Honorable Judge Otis D. Wright for review of the February  
22 20, 2024, order of bail release upon conditions issued by the  
23 Honorable Magistrate Judge Daniel J. Albregts, of the United States  
24 District Court for the District of Nevada. The government moved  
25 Magistrate Judge Albregts to stay his order, which he denied.  
26

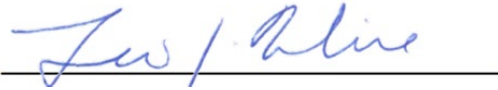
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1       The government continues to seek detention. In support of its  
2 continued request for detention, the government proffers (1) the  
3 contents of the Pre-Trial Services Report but not its conclusion; (2)  
4 the indictment, charging defendant with making a false statement to  
5 law enforcement, in violation of 18 U.S.C. § 1001 and causing the  
6 creation of a false and fictitious record in a federal investigation,  
7 in violation of 18 U.S.C. § 1519; (3) the attached memorandum of  
8 points and authorities; (4) the exhibits to that memorandum of points  
9 and authorities; and (5) such further argument or evidence as may be  
10 requested by the Court at the hearing on this matter.

11  
12 Dated: February 21, 2024

13                       Respectfully submitted,

14                       DAVID C. WEISS  
15                       Special Counsel

16                         
17

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27  
28

1                                    MEMORANDUM OF POINTS AND AUTHORITIES

2                                    I.    INTRODUCTION

3            No condition or combination of conditions will reasonably assure  
4 the appearance of the defendant Alexander Smirnov as required. See  
5 18 U.S.C. § 3142 (e)(1); see also *United States v. Hir*, 517 F.3d 1081,  
6 1086 (9th Cir. 2008). As discussed in more detail below, the nature  
7 and circumstances of the offense, weight of the evidence, and the fact  
8 that Smirnov's ties to the community are weak establish that Smirnov  
9 should be detained. But, in addition, there are four indisputable  
10 facts related to the characteristics of Smirnov that compel detention.

11           First, he claims to have contacts with multiple foreign  
12 intelligence agencies and had plans to leave the United States two  
13 days after he was arrested last week for a months-long, multi-country  
14 foreign trip. During this trip, the defendant claimed to be meeting  
15 with foreign intelligence contacts. Those foreign intelligence  
16 agencies could resettle Smirnov outside the United States if he were  
17 released.

18           Second, he has access to over \$6 million in liquid funds—more  
19 than enough money for him to live comfortably overseas for the rest  
20 of his life.

21           Third, Smirnov did not disclose to Pretrial Services his access  
22 to these funds. He told Pretrial Services he only had \$1,500 in cash-  
23 on-hand and \$5,000 in a personal checking account. See Exhibit 11 at  
24 page 2. As the attached bank statements make clear, as of the end-  
25 of-December, Smirnov has access to more than \$2.9 million, see Exhibit  
26 4 (under seal) and his wife/girlfriend (he refers to her both ways)  
27 (hereafter "DL") has access to more than \$3.8 million, see Exhibit 7  
28 (under seal). The latter's funds are available to him because most

1 of the money in DL's account originated with Smirnov and she pays his  
2 personal expenses out of her account; in other words, these appear to  
3 be shared funds or funds controlled by Smirnov, regardless of whose  
4 name is on the bank account. The fact that Smirnov misrepresented his  
5 assets alone should cause Smirnov to be detained because it shows  
6 that, at the first opportunity, he did not provide true and complete  
7 information to Pretrial Services.

8 Fourth, as an Israeli citizen, Smirnov can obtain a new passport  
9 at any time by visiting an Israeli consulate. The closest Israeli  
10 consulate is approximately 5 hours away in Los Angeles, California.  
11 Thus, even if he turns in his U.S. and Israeli passports, Pretrial  
12 Services has no way to prevent him from obtaining a new Israeli  
13 passport and leaving the United States using it at any time.

14 II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

15 Smirnov was a confidential human source ("CHS") with the Federal  
16 Bureau of Investigation ("FBI"). Indictment ¶ 2. As a CHS, Smirnov  
17 was assigned a handling agent (hereafter "the Handler") who was a  
18 special agent on an FBI squad that investigated violations of federal  
19 criminal law. *Id.*

20  
21 Despite repeated admonishments that he must provide truthful  
22 information to the FBI and that he must not fabricate evidence, Smirnov  
23 provided false derogatory information to the FBI about Public Official  
24 1, an elected official in the Obama-Biden Administration who left  
25 office in January 2017, and Businessperson 1, the son of Public  
26 Official 1, in 2020, after Public Official 1 became a candidate for  
27 President of the United States of America. *Id.* at ¶ 6.  
28

1 In March 2017, Smirnov reported to the Handler that he had had a  
2 phone call with the owner of Ukrainian industrial conglomerate Burisma  
3 Holdings, Limited (hereafter "Burisma Official 1") concerning  
4 Burisma's interest in acquiring a U.S. company and making an initial  
5 public offering ("IPO") on a U.S.-based stock exchange. *Id.* at ¶ 6(a).  
6 In reporting that conversation to the Handler, Smirnov also noted that  
7 Businessperson 1, Public Official 1's son, was a member of Burisma's  
8 Board, a fact that was publicly known. *Id.*

10 Three years later, in June 2020, Smirnov reported, for the first  
11 time, two meetings in 2015 and/or 2016, during the Obama-Biden  
12 Administration, in which he claimed executives associated with  
13 Burisma, including Burisma Official 1, admitted to him that they hired  
14 Businessperson 1 to "protect us, through his dad, from all kinds of  
15 problems," and later that they had specifically paid \$5 million each  
16 to Public Official 1 and Businessperson 1, when Public Official 1 was  
17 still in office, so that "[Businessperson 1] will take care of all  
18 those issues through his dad," referring to a criminal investigation  
19 being conducted by the then-Ukrainian Prosecutor General into Burisma  
20 and to "deal with [the then-Ukrainian Prosecutor General]." *Id.* at  
21 ¶ 6(b).

23 Smirnov also reported two purported phone calls between himself  
24 and Burisma Official 1 wherein Burisma Official 1 stated that he had  
25 been forced to pay Public Official 1 and Businessperson 1 and that it  
26 would take investigators 10 years to find records of illicit payments  
27 to Public Official 1. *Id.* at ¶ 6(c).

1       The events Smirnov first reported to the Handler in June 2020  
2 were fabrications. *Id.* at ¶ 6(d). In truth and fact, Smirnov had  
3 contact with executives from Burisma in 2017, after the end of the  
4 Obama-Biden Administration and after the then-Ukrainian Prosecutor  
5 General had been fired in February 2016, in other words, when Public  
6 Official 1 had no ability to influence U.S. policy and when the  
7 Prosecutor General was no longer in office. *Id.* In short, Smirnov  
8 transformed his routine and unextraordinary business contacts with  
9 Burisma in 2017 and later into bribery allegations against Public  
10 Official 1, the presumptive nominee of one of the two major political  
11 parties for President, after expressing bias against Public Official  
12 1 and his candidacy. *Id.*

14       When he was interviewed by FBI agents in September 2023, Smirnov  
15 repeated some of his false claims, changed his story as to other of  
16 his claims, and promoted a new false narrative after he said he met  
17 with Russian officials. *Id.* at ¶ 6(e).

19       On February 14, 2024, a federal grand jury in the Central District  
20 of California returned a two-count indictment charging Smirnov with  
21 one count of making false statements to federal law enforcement, in  
22 violation of 18 U.S.C. § 1001 (Count One) and; one count of fabricating  
23 information in a federal investigation, in violation of 18 U.S.C.  
24 § 1519 (Count Two). *United States v. Smirnov*, Cr. No. 2:24-cr-00091-  
25 ODW (C.D. Cal. Feb. 14, 2024, ECF 1).

27       That same day, Smirnov was arrested in the District of Nevada as  
28 he returned to the United States on an international flight. Smirnov

1 was scheduled to leave the United States two days later, on February  
2 16, 2024, for a months-long, multi-country trip that, by his own  
3 description, involved meetings with officials of foreign intelligence  
4 agencies and governments. During his custodial interview on February  
5 14, Smirnov admitted that officials associated with Russian  
6 intelligence were involved in passing a story about Businessperson 1.  
7

8 On February 15, 2024, Smirnov had an initial appearance in the  
9 District of Nevada. At that time the government moved for detention  
10 pursuant to 18 U.S.C. § 3142(f)(2)(a) and (b) on the basis that Smirnov  
11 posed a serious risk of flight and a serious risk of obstruction of  
12 justice. The Government requested a three (3) day continuance of the  
13 detention hearing, pursuant to 18 U.S.C. § 3142(f)(2).  
14

15 A detention hearing was held scheduled in his matter on  
16 February 20, 2024, before United States Magistrate Judge Daniel J.  
17 Albregts of the United States District Court for the District of  
18 Nevada. At that hearing, United States Magistrate Judge Albregts  
19 found the government had proven that the defendant posed a serious  
20 risk of flight by a preponderance of the evidence but that the  
21 government had not proven by a preponderance of the evidence that no  
22 condition or combination of conditions could reasonably assure his  
23 appearance. United States Magistrate Judge Albregts ordered Smirnov  
24 released on a personal recognizance bond and conditions.  
25

### 26 III. APPLICABLE LAW

#### 27 A. Standard of Review

28 A de novo standard of review, not a deferential standard, is



1 applied to a district court's review of a magistrate's bail order.  
2 *United States v. Koenig*, 912 F.2d 1190, 1192-93 (9th Cir. 1990).  
3 The court in *Koenig* made clear that the district court's review is  
4 independent and that the district court may also hold an evidentiary  
5 hearing:

6 [In reviewing a magistrate judge's bail order, the  
7 district court] should review the evidence before the  
8 magistrate and make its own independent determination  
9 whether the magistrate's findings are correct, with no  
10 deference. If the performance of that function makes it  
11 necessary or desirable for the district judge to hold  
12 additional evidentiary hearings, it may do so, and its  
13 power to do so is not limited to occasions when evidence  
14 is offered that was not presented to the magistrate.

15 *Id.* at 1193.

16 B. The Bail Reform Act

17 The Bail Reform Act of 1984 ("the Act") permits pretrial  
18 detention of a defendant without bail where "no condition or  
19 combination of conditions will reasonably assure the appearance of  
20 the person as required and the safety of any other person and the  
21 community." 18 U.S.C. § 3142(e). Detention is appropriate where a  
22 defendant is either a danger to the community or a flight risk; it  
23 is not necessary to prove both. *United States v. Motamedi*, 767 F.2d  
24 1403, 1406 (9th Cir. 1985); *United States v. Kouyoumdjian*, 601 F.  
25 Supp. 1506, 1508-10 (C.D. Cal. 1985). A finding that a defendant

26 Title 18, United States Code, Section 3142 (hereafter the "Bail  
27 Reform Act") specifically provides, in relevant part, that "the  
28 judicial officer shall, in determining whether there are conditions

1 of release that will reasonably assure the appearance of the person  
2 as required” consider the following factors:

3 (1) the nature and circumstances of the offense charged ...;

4 (2) the weight of the evidence against the person;

5 (3) the history and characteristics of the person,  
6 including—

7 (A) the person’s character, physical and mental  
8 condition, family ties, employment, financial resources,  
9 length of residence in the community, community ties, past  
10 conduct, history relating to drug or alcohol abuse,  
11 criminal history, and record concerning appearance at court  
12 proceedings; ...

13 18 U.S.C. § 3142(g); *United States v. Santos-Flores*, 794 F.3d  
14 1088, 1091 (9th Cir. 2015). A finding that that there are no  
15 conditions that will reasonably assure a Smirnov’s appearance  
16 need only be established by a preponderance of the evidence.  
17 *Santos-Flores*, 794 F.3d at 1090; *United States v. Gebro*, 948  
18 F.2d 1118, 1121 (9th Cir.1991); *United States v. Motamedi*, 767  
19 F.2d 1403, 1407 (9th Cir. 1985). “More finely put, this means  
20 that the Government must demonstrate that it is more likely than  
21 not that there is a serious risk that the Smirnov will flee, not  
22 that that it is more likely than not that the Smirnov will flee.  
23 *United States v. Figueroa-Alvarez*, No. 4:23-CR-00171-DCN, 2023  
24 WL 4485312, at \*5 (D. Idaho July 10, 2023); see *United States v.*  
25 *Duarte-Vela*, No. 2:23-cr-00009-TOR-1, Amended Order Following  
26 Status Hearing Regarding Detention and Detention Hearing at 7  
27 (Dkt. 32) (E.D. Wa. Jan. 25, 2023); *Alvarenga-Canan*, No. 1:23-  
28

1 cr-00042-BLW, Tr. at 7 (Dkt. 26) ("It's got to be 51 percent of  
2 a serious risk.").

3 IV. THE DEFENDANT POSES A SERIOUS RISK OF FLIGHT AND THERE ARE NO  
4 CONDITIONS THAT CAN REASONABLY ASSURE HIS APPEARANCE

5  
6 A. Smirnov is charged with lying to law enforcement and  
7 fabricating evidence.  
8

9 The nature and circumstances of the offense make clear that there  
10 are no conditions of release that will reasonably assure the appearance  
11 of Smirnov. Pretrial supervision is, at its core, based on trust.  
12 Pretrial Services must trust a defendant to abide by the conditions  
13 the court imposes and to accurately report information requested by  
14 Pretrial Services as they attempt to police those conditions. The  
15 circumstances of the offenses charged—that Smirnov lied to his FBI  
16 Handler after a 10-year relationship where the two spoke nearly every  
17 day—means that Smirnov cannot be trusted to provide truthful  
18 information to Pretrial Services. Critically, Smirnov lied to his FBI  
19 Handler after repeated admonishments that the information he provided  
20 to the FBI must be truthful. And the false information he provided  
21 was not trivial. It targeted the presumptive nominee of one of the  
22 two major political parties in the United States. The effects of  
23 Smirnov's false statements and fabricated information continue to be  
24 felt to this day. Now the personal stakes for Smirnov are even higher.  
25 His freedom is on the line. If he could not be trusted to report  
26 truthful information to his FBI Handler, he cannot be trusted to report  
27 truthful information to Pretrial Services.  
28

1       B.     The weight of the evidence against Smirnov is strong.

2       As described in the indictment, the evidence against Smirnov is  
3 strong.

4       In sum, Smirnov's own travel records, emails and messages with  
5 his Handler, along with emails and travel records of the individuals  
6 who Smirnov claimed to have attended the two meetings with him, will  
7 all be used as evidence against him. Further, the individuals who  
8 participated in these meetings and phone calls will refute that there  
9 was ever any discussion of Public Official 1 or Businessperson 1 in  
10 those meetings or any phone calls at all.

11       C.     The history and characteristics of Smirnov make clear that  
12             no conditions can reasonably assure his appearance.  
13

14       Smirnov's personal history and characteristics also weigh in favor  
15 of detention. Smirnov has very weak ties to the community in Las Vegas.  
16 He has only lived in Las Vegas since 2022. Exhibit 11 at 1. The  
17 condominium where he lives is owned by DL, a fact about which he lied,  
18 as will be addressed below. Exhibit 1 (under seal). He has no family  
19 in Las Vegas. To the contrary, he reports that his mother, father,  
20 and sister all reside in Israel. *Id.* Smirnov lived in Israel from  
21 1992 to 2006, longer than he has lived in the United States. *Id.* He  
22 does not report any employment that is located in Las Vegas. Instead,  
23 he claims to have a "security business," that is registered in  
24 California, where he used to live. See Exhibit 11 at 2. DL, with whom  
25 he lives, does not appear to even know what he does. *Id.* Nor do his  
26 bank records reflect that he is in the "security business," as he  
27 claims. *Id.* Instead, the statements for the accounts he controls show  
28 large wire transfers from what appear to be venture capital firms and

1 individuals. See Exhibit 4 (under seal).

2 1. Smirnov claims to have contact with foreign intelligence  
3 agencies.

4 While Smirnov has no ties to the community in Las Vegas, what he  
5 does have is extensive foreign ties, including, most troublingly and  
6 by his own account, contact with foreign intelligence services,  
7 including Russian intelligence agencies, and has had such contacts  
8 recently. Smirnov could use these contacts to resettle outside the  
9 United States.

10 As noted, law enforcement knows about Smirnov's contact with  
11 officials affiliated with Russian intelligence because Smirnov himself  
12 reported on a number of those contacts to his FBI Handler. As described  
13 below, these contacts are extensive and extremely recent, and Smirnov  
14 had the intention of meeting with one of these officials on his  
15 upcoming planned overseas travel.

16 Of particular note, Smirnov has reported numerous contacts with  
17 Russian Official 1, who has been described by Smirnov in a number of  
18 ways, including as the son of a former high-ranking Russian  
19 government official, someone who purportedly controls two groups of  
20 individuals tasked with carrying out assassination efforts in a  
21 third-party country, a Russian representative to another country,  
22 and as someone with ties to a particular Russian intelligence  
23 service. This latter fact was reported by Smirnov in October, 2023.

24 In December 2023, Smirnov reported to his Handler about a recent  
25 overseas trip, where Smirnov attended a meeting with Russian Official  
26 2, who Smirnov has described as a high-ranking member of a specific  
27 Russian foreign intelligence service. According to Smirnov, the  
28 purpose of the meeting was to discuss a potential resolution to

1 Russia's war against Ukraine. During this same trip, Smirnov  
2 apparently attended a separate meeting with Russian Official 1, the  
3 individual who controls groups that are engaged in overseas  
4 assassination efforts. During this meeting with Russian Official 1,  
5 Russian Official 1 claimed that another individual, Russian Official  
6 4, the head of a particular unit of a Russian Intelligence Service,  
7 ran an intelligence operation at a "club" located at a particular  
8 hotel. Smirnov told the FBI Handler that the Russian Intelligence  
9 Service intercepted cell phone calls made by guests at the hotel. The  
10 Russian Intelligence Service intercepted several calls placed by  
11 prominent U.S. persons the Russian government may use as "kompromat"  
12 in the 2024 election, depending on who the candidates will be. As  
13 described below, this story, which again was relayed by Smirnov to his  
14 Handler in/about December, 2023, appears to mirror the story that  
15 Smirnov was pushing on investigators and prosecutors during their  
16 meeting with him in September, 2023 (in which Smirnov pushed  
17 investigators to look into whether Businessperson 1 had been recorded  
18 in a foreign hotel).

19 Most recently, Smirnov has reported:

- 20 • Meetings in or about December 2023, outside the United States,  
21 between top officials of another country and Russian officials;
- 22 • Contact with a Russian official on November 27, 2023, where the  
23 Russian official provided Smirnov with information on his  
24 knowledge of certain Russian military operations in a third  
25 country; and
- 26 • Contact with a Russian intelligence service operative and top  
27 Russian representative to a third country on November 8, 2023.

1 Exhibit 2.

2 The following is a declassified summary of additional contacts  
3 that predate the contacts referenced above and in Exhibit 2. This  
4 summary was prepared by the FBI and taken from several reports he made  
5 to the FBI:

6  
7 1. (U//FOUO) (Document 1)

8 a. (U//FOUO) In or about October 2023, SMIRNOV reported the  
9 following:

- 10 i. (U//FOUO) SMIRNOV was invited to and planned to  
11 attend the birthday party of an identified  
12 individual in the Middle East, COUNTRY A, which  
13 would include activities on a mega yacht owned by a  
14 high-ranking member of Russia's largest steel and  
15 mining company. SMIRNOV provided the names of  
16 individuals who might attend the birthday  
17 activities, including RUSSIAN OFFICIAL 1, who he  
18 identified as the son of a high-ranking former  
19 Russian government official, and RUSSIAN INDIVIDUAL  
20 1, a high-ranking member of a Russia state-owned  
21 defense conglomerate.

22 2. (U//FOUO) (Document 2)

23 a. (U//FOUO) In or about January 2023, SMIRNOV reported the  
24 following:

- 25 i. (U//FOUO) In December 2022, SMIRNOV learned from a  
26 Russian Foreign Intelligence official the  
27 whereabouts of a particular Russian Foreign  
28 Intelligence officer living outside of Russia.  
ii. (U//FOUO) In or about January 2023, SMIRNOV spoke to  
another Russian Foreign Intelligence officer who  
provided the first name of the Russian Foreign  
Intelligence officer living outside of Russia.

3. (U//FOUO) (Document 3)

a. (U//FOUO) On or about August 2023, SMIRNOV reported the  
following:

- i. (U//FOUO) SMIRNOV had been introduced to RUSSIAN  
INDIVIDUAL 2, a high-ranking member of a Russian  
steel company. RUSSIAN INDIVIDUAL 2 was organizing  
a birthday party for another person on RUSSIAN  
INDIVIDUAL 2's mega yacht. RUSSIAN INDIVIDUAL 2  
mentioned that two of the oligarchs who would be  
attending the party have "connections" or "business  
ties" to a high-ranking member of a Russian Foreign

1 Intelligence Service, RUSSIAN OFFICIAL 2. Because of  
2 the language used by RUSSIAN INDIVIDUAL 2, SMIRNOV  
3 was not clear about the precise nature of the  
4 relationship between the identified Russian  
oligarchs and RUSSIAN OFFICIAL 2, a high-ranking  
member of a Russian Foreign Intelligence Service.

5 4. (U//FOUO) (Document 4)

6 a. (U//FOUO) In or about October 2023, SMIRNOV reported the  
7 following information (this information was provided to  
8 supplement Document 1):

- 9 i. (U//FOUO) The planned COUNTRY A birthday party may be  
10 attended by RUSSIAN OFFICIAL 1, the son of a former  
11 high-ranking Russian government official. An  
12 associate of SMIRNOV provided SMIRNOV with a copy of  
13 RUSSIAN OFFICIAL 1's passport.

14 5. (U//FOUO) (Document 5)

15 a. (U//FOUO) In or about November 2023, SMIRNOV reported the  
16 following information:

- 17 i. (U//FOUO) SMIRNOV learned from RUSSIAN OFFICIAL 1  
18 himself, that RUSSIAN OFFICIAL 1 has direct access  
19 to the highest levels of the Russian government.  
20 Although RUSSIAN OFFICIAL 1's father was a former  
21 high-ranking government official in Russia, RUSSIAN  
22 OFFICIAL 1's access to the highest levels of the  
23 Russian government is direct, and not through his  
24 father.
- 25 ii. (U//FOUO) RUSSIAN OFFICIAL 1 is a top, unofficial  
26 representative of Russia to COUNTRY B.
- 27 iii. (U//FOUO) SMIRNOV provided a photograph of RUSSIAN  
28 OFFICIAL 1 taken in or about November 2023, during  
RUSSIAN OFFICIAL 1's visit to COUNTRY A.

6. (U//FOUO) (Document 6)

a. (U//FOUO) In or about November 2023, SMIRNOV reported the  
following information:

- i. (U//FOUO) SMIRNOV learned from sources, including  
RUSSIAN OFFICIAL 1, that a particular individual,  
RUSSIAN OFFICIAL 3, is the representative of the  
former head of a particular unit of a Russian  
Intelligence Service, RUSSIAN OFFICIAL 4.
- ii. (U//FOUO) SMIRNOV provided information about RUSSIAN  
OFFICIAL 4's chain of command. SMIRNOV named three  
individuals who have direct, immediate access to the  
highest levels of the Russian government, including  
the father of RUSSIAN OFFICIAL 1.



1  
2 7. (U//FOUO) (Document 7)

3 a. (U//FOUO) In or about December 2023, SMIRNOV reported the  
4 following information (which is also reported in Document  
5 6).

6 i. (U//FOUO) SMIRNOV learned from sources, including  
7 RUSSIAN OFFICIAL 1, that a particular individual,  
8 RUSSIAN OFFICIAL 3, is the representative of the  
9 former head of a particular unit of a Russian  
10 Intelligence Service, RUSSIAN OFFICIAL 4.

11 8. (U//FOUO) (Document 8)

12 a. (U//FOUO) In or about November 2023, SMIRNOV reported the  
13 following information:

14 i. (U//FOUO) In October 2023, SMIRNOV had in-person  
15 conversations with RUSSIAN OFFICIAL 1  
16 overseas. During these conversations, RUSSIAN  
17 OFFICIAL 1 discussed his knowledge and seeming  
18 control of two groups of Russian operatives who were  
19 previously tasked with the assassination of a high-  
20 ranking official of COUNTRY C. RUSSIAN OFFICIAL 1  
21 offered to stop the assassination efforts in  
22 exchange for certain things, including an agreement  
23 by COUNTRY C to stop targeting civilian-family-  
24 members of certain Russian officials living in  
25 Moscow.

26 ii. (U//FOUO) RUSSIAN OFFICIAL 1 also provided SMIRNOV  
27 with specific information about Russia's military  
28 resources for a winter attack in COUNTRY C. RUSSIAN  
OFFICIAL 1 also told SMIRNOV about the Russian  
government's intentions for their war in Ukraine.

9. (U//FOUO) (Document 9)

a. (U//FOUO) In or about December 2023, SMIRNOV reported the  
following information:

i. (U//FOUO) SMIRNOV attended a meeting in COUNTRY A in  
December 2023 that was attended by RUSSIAN OFFICIAL  
2, a high-ranking member of a Russian Foreign  
Intelligence Service. The primary purpose of the  
meeting was to discuss a potential resolution to the  
Russia-Ukraine war.

ii. (U//FOUO) On this same trip, SMIRNOV attended another  
meeting with, among others, RUSSIAN OFFICIAL 1.

iii. (U//FOUO) Unrelated to the above, SMIRNOV had a  
separate conversation with RUSSIAN OFFICIAL 1,  
wherein RUSSIAN OFFICIAL 1 claimed that RUSSIAN  
OFFICIAL 4, the head of a particular unit of a  
Russian Intelligence Service, ran an intelligence

operation at a "club" located on a particular floor of HOTEL 1, which is in COUNTRY C. SMIRNOV stated the Russian Intelligence Service intercepted cell phone calls made by guests at the hotel. The Russian Intelligence Service intercepted several calls placed by prominent US persons the Russian government may use as "kompromat" in the 2024 election, depending on who the candidates will be.

- iv. (U//FOUO) SMIRNOV later had a meeting with another COUNTRY C government official, who stated it was common knowledge that the Russian Intelligence Service did, in fact, run such intelligence operations at HOTEL 1.

10. (U//FOUO) (Document 10)

- a. (U//FOUO) In or about February 2022, SMIRNOV provided the following information:

- i. (U//FOUO) When SMIRNOV was working in COUNTRY D circa 2002, he conducted a joint operation to recruit two individuals: 1) RUSSIAN OFFICIAL 5, Russian consular to COUNTRY D, who was caught spying; and, 2) a COUNTRY E consular to COUNTRY D.
- ii. (U//FOUO) SMIRNOV first met RUSSIAN OFFICIAL 5 at an event/party COUNTRY D put on for foreign officials. Thereafter, SMIRNOV spent numerous months developing a "friendship" with RUSSIAN OFFICIAL 5. After some time, SMIRNOV was asked by COUNTRY D to contact RUSSIAN OFFICIAL 5 and tell them that COUNTRY D had info that RUSSIAN OFFICIAL 5 was spying. Rather than arresting/PNGing RUSSIAN OFFICIAL 5, COUNTRY D told RUSSIAN OFFICIAL 5 had to leave within 48 hours or there would be "adverse consequences", but that RUSSIAN OFFICIAL 5 should keep in touch with COUNTRY D and SMIRNOV. Thereafter, RUSSIAN OFFICIAL 5 would occasionally provide SMIRNOV with information. RUSSIAN OFFICIAL 5 never provided information that was "adverse" to Russia.
- iii. (U//FOUO) Approximately three years before the time of this reporting, possibly in 2019, SMIRNOV traveled to Russia and met with RUSSIAN OFFICIAL 5. They had a very careful, coded conversation about what Russia might look like under different leadership. For background, SMIRNOV understood that RUSSIAN OFFICIAL 5's spouse is somehow related to RUSSIAN OFFICIAL 6, a former high-ranking member of a Russian Intelligence Service. SMIRNOV has never met RUSSIAN OFFICIAL 6, however SMIRNOV once called RUSSIAN OFFICIAL 5 who was in the car at the time

- 1 with RUSSIAN OFFICIAL 6, who spoke very briefly to  
2 SMIRNOV over speaker phone.
- 3 iv. (U//FOUO) During a subsequent meeting two days later,  
4 SMIRNOV and RUSSIAN OFFICIAL 5 spoke again about  
5 matters pertaining to Russia. RUSSIAN OFFICIAL 5  
6 indicated that RUSSIAN OFFICIAL 6 was not happy with  
7 Russian leadership, and that RUSSIAN OFFICIAL 6 was  
8 also close friends/associates with RUSSIAN OFFICIAL  
9 2, a high-ranking member of a Russian Foreign  
10 Intelligence Service.
- 11 v. (U//FOUO) First call with RUSSIAN OFFICIAL 2 (High-  
12 ranking member of a Russian Foreign Intelligence  
13 Service): Prior to a recent overseas trip, SMIRNOV  
14 contacted RUSSIAN OFFICIAL 5 to see if he could  
15 arrange to have RUSSIAN OFFICIAL 2, speak to a high-  
16 ranking official of COUNTRY C. SMIRNOV contacted  
17 RUSSIAN OFFICIAL 5 and provided him with a proposed  
18 date and time for RUSSIAN OFFICIAL 2 to call.  
19 SMIRNOV obtained a "throw-phone" and foreign SIM  
20 card and provided RUSSIAN OFFICIAL 5 with the  
21 number. SMIRNOV indicated that a call subsequently  
22 took place between RUSSIAN OFFICIAL 2 and a high-  
23 ranking official COUNTRY C, the subject matter of  
24 which SMIRNOV was aware.
- 25 vi. (U//FOUO) Second call with RUSSIAN OFFICIAL 2 (High-  
26 ranking member of a Russian Foreign Intelligence  
27 Service): In January 2022, SMIRNOV had a second call  
28 with RUSSIAN OFFICIAL 2 (SMIRNOV used a second throw  
phone). SMIRNOV asked RUSSIAN OFFICIAL 2 for a  
"favor"—namely that Russian troops do not hurt  
SMIRNOV's associate, an official of COUNTRY C.  
RUSSIAN OFFICIAL 2 asked what SMIRNOV thought of  
SMIRNOV's associate. SMIRNOV later reiterated his  
"ask" that his associate not be harmed during any  
Russian incursion. RUSSIAN OFFICIAL 2 said he was  
told by RUSSIAN OFFICIAL 5, who SMIRNOV "befriended"  
years earlier after RUSSIAN OFFICIAL 5 was caught  
spying, that SMIRNOV was a "good guy," and therefore  
RUSSIAN OFFICIAL 2 would help to ensure SMIRNOV's  
associate was not killed or harmed.
- vii. (U//FOUO) Third call with RUSSIAN OFFICIAL 2 (High-  
ranking member of a Russian Foreign Intelligence  
Service): After SMIRNOV returned from his overseas  
trip, he again asked RUSSIAN OFFICIAL 5 to set up  
another call with RUSSIAN OFFICIAL 2. During the  
call, SMIRNOV discussed the additional escalation of  
Russian troops along the Ukraine border and asked  
RUSSIAN OFFICIAL 2 whether he could provide any  
details about Russia's intentions. RUSSIAN OFFICIAL

2 stated he was 99% that only a skirmish would occur.

11. (U//FOUO) (Document 11)

a. (U//FOUO) In or about October 2023, SMIRNOV provided the following information:

i. (U//FOUO) Photo of passport of RUSSIAN OFFICIAL 1.

ii. (U//FOUO) In October 2023, SMIRNOV advised that RUSSIAN OFFICIAL 1, the son of a high-ranking former Russian government official, was invited to attend a birthday party in October 2023 in COUNTRY A, which will be held on RUSSIAN INDIVIDUAL 2's mega yacht. SMIRNOV received a copy of RUSSIAN OFFICIAL 1's Russian passport.

Smirnov's anticipated travel from the United States, on Friday of last week, two days after his return, was for the purpose of meeting with Russian intelligence officials, among others. Specifically:

12. (U//FOUO) (Document 12)

a. (U//FOUO) In or about January 2024, SMIRNOV provided the following information. The information was recorded in an FD-1040a, CHS travel/ET Activity Request Form.

i. SMIRNOV reported future travel and meeting itineraries to his FBI Handler, which outlined travel to various countries in February 2024. SMIRNOV planned to meet with RUSSIAN OFFICIAL 1, an operative of a Russian Intelligence Service. The primary purpose of the meeting with RUSSIAN OFFICIAL 1 was to discuss the exchange of Russian and Ukrainian military prisoners. The meeting was set to occur in COUNTRY A.

Smirnov's contacts with Russian officials who are affiliated with Russian intelligence services are not benign. At his meeting with FBI investigators in September 2023, Smirnov pushed a new story about Public Official 1 and Businessperson 1, as described in the indictment. Indictment at ¶51. Specifically, Smirnov wanted them to look into whether Businessperson 1 was recorded in a hotel in Kiev called the Premier Palace. *Id.* Smirnov told investigators that the entire Premier Palace Hotel is "wired" and under the control of the Russians.

1 *Id.* Smirnov claimed that Businessperson 1 went to the hotel many times  
2 and that he had seen video footage of Businessperson 1 entering the  
3 Premier Palace Hotel. *Id.* Investigators know that Smirnov's new story  
4 is false because Businessperson 1 has never travelled to Ukraine. *Id.*  
5 at ¶ 54.

6 Smirnov suggested that investigators check to see if  
7 Businessperson 1 made telephone calls from the Premier Palace Hotel  
8 since those calls would have been recorded by the Russians. *Id.* at ¶  
9 52. Smirnov claimed to have obtained this information a month earlier  
10 by calling a high-level official in a foreign country. *Id.* Smirnov  
11 also claimed to have learned this information from four different  
12 Russian officials. *Id.*

13 Smirnov told investigators that the four different Russian  
14 officials are all top officials and two are the heads of the entities  
15 they represent. *Id.* at ¶ 53. These Russians said that conversations  
16 with Ukrainians about ending the war will include the next U.S.  
17 election. Smirnov told investigators he is involved in negotiations  
18 over ending the war and had been for the previous four months. *Id.*  
19 According to Smirnov, the Russians want Ukraine to assist in  
20 influencing the U.S. election, and Smirnov thinks the tapes of  
21 Businessperson 1 at the Premier Palace Hotel is all they have. *Id.*  
22 Smirnov told investigators he wants them to ask Businessperson 1 how  
23 many times he visited and what he did while at the Premier Palace  
24 Hotel. *Id.*

25 Thus, Smirnov's efforts to spread misinformation about a  
26 candidate of one of the two major parties in the United States  
27 continues. The Court should consider this conduct as well when  
28 evaluating his personal history and characteristics. What this shows

1 is that the misinformation he is spreading is not confined to 2020.  
2 He is actively peddling new lies that could impact U.S. elections  
3 after meeting with Russian intelligence officials in November. In  
4 light of that fact there is a serious risk he will flee in order to  
5 avoid accountability for his actions.

6 2. Smirnov has access to millions of dollars that he did not  
7 disclose to Pretrial Services.

8 Smirnov has already demonstrated that he cannot be trusted to  
9 provide truthful information to Pretrial Services. When he was  
10 interviewed, he told Pretrial Services that he only had access to  
11 \$1,500 in cash and another \$5,000 in a checking account. See Exhibit  
12 11 at 2.

13 That is not true. Smirnov is the sole signatory on a Bank of  
14 America business checking account ending with 3928 in the name of  
15 Avalon Group Inc. (hereafter "BOA 3928") Exhibit 3 (under seal). As  
16 of December 31, 2023, BOA 3928 had a balance of \$2,917,496.61. Exhibit  
17 4 (under seal). The fact that Smirnov lied to Pretrial Services in  
18 his very first interaction with them establishes conclusively that  
19 there are no conditions that could reasonably assure his appearance.  
20 That is because the effectiveness of any condition or combination  
21 relies on Pretrial Services ability to obtain truthful information  
22 from Smirnov.

23 Smirnov uses BOA 3928 to fund his and DL's lifestyle, although  
24 the transfers themselves look like payments from a business, "Avalon  
25 Group, Inc." to DL. From February 2020, when the account was opened,  
26 through December 31, 2022, Smirnov withdrew \$1,737,500 to purchase  
27 cashier's checks in the name of "Avalon Group Inc." and payable to DL.  
28 *Id.* Those cashier's checks were then deposited in DL's account, in

1 some cases within 30 minutes of Smirnov withdrawing the funds to  
2 purchase the checks. See Exhibit 10 (under seal). DL deposited these  
3 cashier's checks into one of her accounts at a branch near where  
4 Smirnov withdrew the funds. *Id.* For example, on October 13, 2020, a  
5 withdrawal was conducted by Avalon Group Inc. in the amount of \$599,000  
6 from BOA 3928. Exhibit 5 (under seal). The transaction was conducted  
7 at a Bank of America branch located in San Juan Capistrano, California.  
8 *Id.* A handwritten note on the withdrawal slip identified "CADL XXXX349  
9 4/26/2022," which was Smirnov's California driver's license. *Id.*  
10 Immediately following the withdrawal, Bank of America official check  
11 1145711247 in the amount of \$599,000 payable to DL was purchased using  
12 the funds. Exhibit 6 (under seal). On October 14, 2020, Bank of  
13 America official check 1145711247 was deposited to DL's Wells Fargo  
14 account ending 1356, for which she is the sole signer. *Id.* The  
15 transaction was conducted at a Wells Fargo branch located in San Juan  
16 Capistrano, California. *Id.* The withdrawal from BOA 3928 was funded  
17 by a previous wire transfer of \$600,000 received from Economic  
18 Transformation Technologies Corporation on September 22, 2020. The  
19 BOA 3928 account balance prior to receipt of the wire transfer was  
20 approximately \$31.

21 Smirnov also wired DL \$785,000 in two payments, \$740,000 at the  
22 end of 2020 and another \$45,000 at the end of 2022. Exhibit 4 (under  
23 seal).

24 *As of February 1, 2024, DL had \$3,827,460 in her Wells Fargo*  
25 *account ending in 1356. Exhibit 7 (under seal).*

26 In 2022 and 2023, after Smirnov began making these substantial  
27 transfers to DL, albeit using cashier's checks that make it appear she  
28 is receiving the funds from a business, "Avalon Group Inc.," DL made

1 payments to Smirnov's Citi credit card, which is the primary means by  
2 which he pays personal expenses. See Exhibit 10 (under seal).  
3 Specifically, in 2022, DL paid \$108,916.52 towards Smirnov's Citi  
4 credit card debt and in 2023, she paid \$275,869.44. *Id.*

5 Smirnov told Pretrial Services that he lives with DL in a  
6 condominium she leases. See Exhibit 11 at 1. That is also not true.  
7 The attached report shows she is in fact the owner, having purchased  
8 it on February 28, 2022, for the sale price of \$1,425,000. See Exhibit  
9 1 (under seal). In February 2022, DL purchased a condominium in Las  
10 Vegas where she and Smirnov reside. *Id.* While the condominium is  
11 titled in her name, she purchased it after receiving more than \$2.4  
12 million from Smirnov. See Exhibit 10 (under seal).

13 Smirnov also withdrew \$174,219 in cash from the account, including  
14 \$60,304.25 in 2023. Exhibit 4 (under seal). In addition to DL paying  
15 his personal expenses, Smirnov also pays various personal expenses out  
16 of this account including gasoline, credit card payments, restaurants,  
17 duty free shopping and others. *Id.*

18 The government assumes that Smirnov did not disclose these  
19 substantial assets to the Court when he submitted his financial  
20 affidavit. That is because while the government has not seen the  
21 affidavit, the Court appointed the Office of the Federal Public  
22 Defender to represent Smirnov at his initial appearance. The court  
23 specifically admonished Smirnov that he was submitting his financial  
24 affidavit under the penalties of perjury. If he did not disclose his  
25 substantial assets the this is a second example of an instance where  
26 Smirnov lied to the Court.

27 In the event that Smirnov did not disclose these assets, the  
28 government respectfully requests that the Court release the affidavit



1 to the government so that the government can consider whether to charge  
2 Smirnov with perjury.

3 3. Smirnov can obtain an Israeli passport at any time.

4 Finally, the Court should also consider that Smirnov is a dual  
5 national who holds both U.S. citizenship, and a U.S. passport, and  
6 Israeli citizenship, and an Israeli passport. While Smirnov can be  
7 ordered to turn both passports in to Pretrial Services and could be  
8 prohibited from obtaining a new U.S. passport, he cannot be prohibited  
9 from obtaining a new Israeli one. He can obtain a new Israeli passport  
10 in the United States by visiting any one of Israel's consulates in  
11 Washington, DC, New York, Houston, Miami or Los Angeles. See Exhibits  
12 8 and 9.

13 V. Conclusion

14 Based on the above, this Court should conclude that no condition  
15 or combination of conditions will reasonably assure the appearance of  
16 the Smirnov as required and order him detained pending trial.